

SUBSTITUTE JOINT DECLARATION FOR PATENT APPLICATION

As the below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names:

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled SUBTLE MITOCHONDRIAL MUTATIONS AS TUMOR MARKERS, the specification of which

is attached hereto,
was filed on August 20, 1998 as Application Serial Number 09/177,856 and was amended on _____ (if applicable).
 was filed under the Patent Cooperation Treaty (PCT) and accorded International Application No. _____, filed _____, and issued on _____ (if any)

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

We hereby acknowledge the duty to disclose information which is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56(a).

Prior Foreign Application(s)

We hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Country	Application No.	Date of Filing (day month year)	Date of Issue (day month year)	Priority Claimed Under 35 U.S.C. §119

Prior United States Provisional Application(s)

We hereby claim priority benefits under Title 35, United States Code, §119(e)(1) of any U.S. provisional application listed below:

U.S. Provisional Application No.	Date of Filing (day month year)	Priority Claimed Under 35 U.S.C. §119(e)(1)
60/097,307	08/20/98	Yes

Prior United States Application(s)

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Date of Filing (Day, Month, Year)	Status X Patented, Pending, Abandoned

Power of Attorney

And we hereby appoint, both jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith the following attorneys and agents, their registration numbers being listed after their names:

ALTHEIMER, Robert R.	31,610	HONG, Francis E.	34,373	NELSON, Jon O.	34,566
BANNISTER, Donald W.	17,013	HOSCHEIT, Diane H.	19,090	NIEGOVSKI, James A.	28,331
HANNAN, Mark T.	29,588	HYMEL, Lin J.	45,414	PATEL, Binu J.	42,062
DANNER, Pamela L.	33,664	KWANICKI, John P.	34,621	PATHAK, Aray S.	35,266
BECK, Ken, Matthew P.	45,854	JACKSON, Thomas H.	59,835	PETERSON, Thomas L.	30,969
BECKETT, William W.	18,762	KAGAN, Sandy A.	52,141	POTENZA, Joseph M.	25,175
BERG, Orla, Peter, Joseph J.	48,057	KATZ, Robert S.	36,402	PRATT, Thomas K.	37,210
DODDNER, John	42,538	KELLY, William J.	43,719	REYN, Christopher J.	35,761
HURDOW, Scott V.	42,573	KRAUSE, Joseph P.	37,578	RESEN, Robert H.	32,168
GALLAGHER, Joseph V.	20,098	LAWRENCE, V.	29,822	RIVARD, Paul M.	43,446
CHANG, Fien S.	22,402	MCANDRELL, A.	52,355	ROBISON, Douglas W.	32,771
COJIAN, Gregory J.	40,529	MANNANVA, Astha K.	45,301	ROTH, Steven P.	32,550
COWIFERMAN, Marc S.	24,143	MARPLE, Marc-Clair S.	37,598	SCHAD, Steven P.	29,042
CUSTIN, Joseph P.	14,571	MAPE, Steven A.	15,912	SHIPLEY, Charles W.	17,207
DAVID, Michael	44,642	MCDERMOTT, Peter D.	29,411	SHULL, Jason	29,844
DEMOCAL, Leon J.	39,654	MCKEE, Christopher L.	32,384	SKERFVON, Joseph M.	34,257
EVANS, Thomas J.	15,803	MCKEE, Edward F.	17,135	STOCKLEY, D. J.	37,746
FLOROCHIKO, Gary D.	15,509	MEDLOCK, Nina L.	29,473	VAN ES, J. Peter	17,207
FREIGLSON, Catherine A.	40,877	MEECE, T. moby C.	32,153	WITCOFF, Sheldon W.	19,724
FICKLER, Debra A.	46,690	MEEKE, Frederick M.	35,222	WOLFF, Franklin D.	53,561
FISHER, William J.	22,123	MILLER, Charles L.	41,805	WOLFFE, Susan A.	38,056
GALIMOCCHI, Christopher R.	38,500	MITAKIS, Junice Y.	43,808	WRIGHT, Brooks C.	
HANSON, Garry E.	40,149	MORENO, Christopher P.	36,596		
KIMMENDINGER, Lisa M.	42,653	MOTTLEY, Daniel G.	42,912		

All correspondence and telephone communications should be addressed to:

Banner & Witcoff, Ltd.
Customer Number 22907 (WDC)

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature _____ Date _____
Full Name of First Inventor POLYAK Kornelia
Family Name First Given Name Second Given Name
Residence Roslindale, MA Citizenship Hungarian
Post Office Address 26 Fairview Street, Roslindale, MA 02131

Signature _____ Date 9/30/01
Full Name of Second Inventor YOGELSTEIN Bert
Family Name First Given Name Second Given Name
Residence Baltimore, Maryland Citizenship United States of America
Post Office Address 1700 Berrigan Way, Baltimore, Maryland 21208

Signature Kenneth W. Kinsler Date 10/2/01
Full Name of Third Inventor KINSLER First Given Name Kenneth
Family Name W.
Residence Bethesda, Maryland Second Given Name
Post Office Address 1403 Hallirk Way, Bethesda, Maryland 20105
Citizenship United States of America

BANNER & WITCOFF, LTD.

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Rev 1.0 N-17-2000

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Attorney Docket No. 01107.82346

Kornelia POLYAK et al.

Group Art Unit: 1655

Serial No. 09/377,856

Examiner: C. Wilder

Filed: August 20, 1999

BATCH No. M76

For: SUBTLE MIOCHONDRIAL MUTATIONS AS TUMOR MARKERS

SUBMISSION OF SUBSTITUTE DECLARATION

Assistant Commissioner of Patents

Washington, D.C. 20231

Sir:

Submitted herewith two identical Declarations: the first executed by the named inventor Kornelia Polyak; the second by the named inventors Bert Vogelstein and Kenneth Kinzler. These two declarations are to be considered as a single Joint Substitute Declaration.

Applicants request that the attached Substitute Declaration replace the originally filed Declaration in the above-subject U.S. patent application, since the originally filed Declaration erroneously claimed benefit from prior United States application 60/377,856 filed August 20, 1999, when, in fact, the benefit should have been from serial number 60/097,307, filed August 20, 1998. "The errors in the originally filed declaration were typographical errors." The Substitute Declaration further updates the residence address of Kornelia Polyak, which has changed since the filing of the original Declaration.

The undersigned believes that no additional fees are involved in filing this Substitute Declaration. However, if necessary, the Commissioner is hereby authorized to charge any additional fees to Deposit Account 19-0733.

Respectfully submitted,

By: Lin J. Hymel
Lin J. Hymel
Registration No. 45,414

Dated: 10-26-01

BANNER & WITCOFF, LTD.
1001 G Street, N.W.
Eleventh Floor
Washington, D.C. 20001

Banner & Witcoff Ref. No.: 01107.82346
Client Ref. No.: DM-3449

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Power of Attorney

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WITNESS and agents, then regular	24,566
ALATHER, Robert F.	31,810
BANNER, Donald W.	17,037
BANNER, Max T.	29,883
BANNER, Pamela L.	13,644
BECKER, Matthew P.	45,824
BECKETT, William W.	18,362
BERKOWITZ, Joseph J.	46,037
BOUNIER, Jordan	42,378
BURROW, Scott A.	42,375
CALLAHAN, James V.	30,665
CHANG, Steve M.	42,402
COHAN, Gregory J.	40,559
COOPERMAN, Marc S.	34,143
CURTIN, Joseph F.	34,571
DAVID, Michael	44,642
DEMOOR, Laura J.	39,554
EVANS, Thomas L.	33,803
FEDEGORSKY, Gary D.	35,309
FERGUSON, Catherine A.	40,477
PICKLER, Debra A.	45,690
FISHER, William I.	32,113
GLEMBOKA, Christopher R.	38,300
HANLON, Brian E.	40,449
HFMMDINGER, Lisa M.	42,653
HONG, Patricia E.	34,375
HOSCHET, Dek H.	19,090
HYMEL, Linh	45,414
INWICKE, Joss P.	34,628
JACKSON, Thomas H.	29,808
KAGAN, Sarah A.	32,141
KATZ, Robert S.	36,402
KELTON, William J.	43,719
KORALIS, Joseph P.	32,378
LINKE, Ernest V.	29,822
MALONE, Date A.	32,155
MANNAVA, Astik K.	45,01
MARIE, Mario-Clare B.	37,588
MAY, Steven A.	49,912
MCDERMOTT, Peter D.	29,411
MONK, Christopher L.	32,834
MOLKE, Edward F.	17,335
MIDDLEKAMP, Nira L.	29,673
MEECE, Timothy C.	38,553
MEKKER, Frederick M.	35,242
MILLER, Charles L.	43,805
MITCHELL, Janice V.	43,808
MOLINCI, Christopher P.	38,566
MOTTLEY, Dennis G.	42,912
NELSON, Jon O.	24,331
NIEGWINSKI, Jerome A.	42,665
PATEL, Binai	38,256
PATEAK, Abby S.	30,969
PETERSON, Thomas L.	28,175
POTENZA, Joseph M.	37,210
FRANZ, Thomas M.	33,761
REVEL, Christopher J.	32,165
REISS, Robert H.	43,446
RIVARD, Paul M.	32,731
ROBISON, Douglas W.	32,550
SCHAUD, Steven P.	28,042
SHIFFLER, Charles W.	47,085
SHULL, James	29,844
SHERMAN, Joseph M.	34,257
STUCKEN, D. J.	37,746
VAN BS, J. Peter	17,399
WITCOFF, Stephen W.	19,724
WOLFFE, Franklin D.	33,368
WOLFFE, Susie A.	28,061
WRIGHT, Bradley C.	

All correspondence and telephone communications should be addressed to

Banner & Wincoff, Ltd.
Customer Number: 22907 (WDC)

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature POLYAK Kornelia
Full Name of First Inventor POLYAK First Given Name Second Given Name
Family Name Kornelia
Residence Brookline, MA Citizenship Hungarian
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Signature VOGELSTEIN Date Sept 1962
Full Name of Second Inventor VOGELSTEIN Family Name Bert
First Given Name Bert Second Given Name
Residence Baltimore, Maryland Citizenship United States of America
Post Office Address 3700 Bretton Way, Baltimore, Maryland 21208

Signature		Date	
Full Name of Third Inventor	KINZLER	Kenrich	W
	Family Name	First Given Name	Second Given Name
Residence	BelAir, Maryland	Citizenship United States of America	
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